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REMARKS

This response is intended as a full and complete response to the final Office Action mailed August 24, 2005. In the Office Action, the Examiner notes that claims 106-118 are pending and rejected. By this response, Applicant has amended claims 106-118 and added claims 119-120.

In view of both the amendments presented above and the following remarks, Applicant submits that the claims now pending in the application are not obvious under the provisions of 35 U.S.C. §103. Thus, Applicant believes that all the claims are allowable.

It is to be understood that Applicant, by amending the claims, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

Amendments to the Claims, and the New Claims

By this response, Applicant has amended claims 106-118, and added claims 119-120. The amendments to the claims, as well as the new claims, are fully supported by the Specification, Drawings and Claims as originally filed.

For example, the amendments to the claims, as well as the new claims, are supported, generally speaking, at least by Figure 30 of the Drawings and pages 82-98 of the Specification. The amendments to independent claims 106 and 115 are, in particular, supported by page 88, line 14, to page 89, line 16; and page 91, lines 8-13. The amendments to claim 107 are further supported by page 18, lines 10-12. The amendments to claim 111, and new claim 119, are further supported by page 86, line 22, to page 87, line 3.

Thus, no new matter has been added and the Examiner is respectfully requested to enter the amendments and the new claims.

35 U.S.C. §103 Rejection of Claims 106-118

Claims 106-118 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,990,927 to Hendricks (hereinafter "Hendricks") in view of U.S. Patent

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5,867,223 to Schindler et al. (hereinafter "Schindler") and U.S. Patent 5,062,136 to Gattis et al. (hereinafter "Gattis"). Applicant respectfully traverses the rejection.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. The Hendricks, Schindler and Gattis references, alone or in combination, fail to teach or suggest all of the limitations recited in claim 106, and thus fail to teach or suggest the Applicants' invention as a whole.

Specifically, the Hendricks, Schindler and Gattis references fail to teach or suggest at least an apparatus for upgrading a set top terminal, "wherein the apparatus prepares the upstream communication signal for transmission over a transmission network of the cable television program delivery system," the upstream communication signal comprising encrypted audio and video data, as recited in claim 106 as amended.

The Hendricks reference discloses hardware upgrades for a set top terminal. In particular, the Hendricks reference discloses the hardware upgrades as shown in Figures 9a, 9b, 10, 12a and 12b. However, as the Examiner acknowledges:

"Hendricks is silent on an upgrade encryption module for encrypting an upstream transmission signal comprising at least one of audio and video data." (page 3 of the 8/24/05 Office Action)

Thus, the Hendricks references also necessarily does not teach or suggest preparing an upstream communication signal, comprising encrypted audio and video data, for transmission over the transmission network of the cable television program delivery system.

The Schindler reference fails to bridge the substantial gap between the Hendricks reference and the Applicant's claimed invention. The Schindler reference discloses a circuit card for providing video conferencing. In particular, the Schindler reference discloses (emphasis added below):

"A circuit card or cards for providing video conferencing via a public switched telephone network is shown generally at 1510 in FIG. 15. Each element described implements the standards that are identified in the element block. Input/output devices comprising a microphone 1512 and speaker 1514 are coupled to a signal converter 1516. Converter 1516 converts signals from the microphone to digital signals, and digital signals to analog speakers for driving the speaker 1514. Converter 1516 is coupled to an echo cancelling device 1518 for reducing feedback between

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the speaker and microphone. An audio coder/decoder 1520 is coupled to both the cancelling device 1518 and converter 1516, and to a delay circuit 1522, which in turn is coupled to a multiplexor/demultiplexor 1524 for processing the audio signals. Multiplexor 1524 is in turn coupled to a modem 1526, which has capability for both sending and receiving data on a public switched telephone network indicated at 1528.

A video camera 1532 is mounted external to the card, and is used to provide a video feed to a color space convertor/graphics display module 1535, which provides a further video signal to a video coder/decoder 1536, which is coupled to the multiplexor 1524. Video signals received from the camera are compressed by the coder 1536, and then transmitted over the telephone network by modem 1526. Video signals received from the network by modem 1526 are demultiplexed, decompressed and turned into VGA signals for display on a monitor. In addition to providing the ability to perform video conferencing with other compatible systems over a telephone network, several data exchanged protocols are supported at a data converter 1540, which is coupled between the multiplexor 1524 and a data storage device 1542 containing data generated by a user application. A system control icon 1544 represents the ability of the operating system of a computer, such as the computer comprising the home entertainment system to control the elements of the video conferencing circuitry. System control 1544 is coupled to a system control block 1546, which implements standated H.246 and in turn is coupled to both the multiplexor 1524 and modem 1526 to provide operator control thereof." (column 19, line 65, to column 20, line 38)

Thus, the Schindler reference discloses a circuit card for providing video conferencing over a public switched telephone network. Therefore, the Schindler reference does not teach or suggest the claimed preparing an upstream communication signal, comprising encrypted audio and video data, for transmission over the transmission network of the cable television program delivery system.

The Gattis reference fails to bridge the substantial gap between the Hendricks reference and the Applicant's claimed invention. The Gattis reference discloses a teleconferencing system for use with a desktop computer (see Abstract), disclosed in relevant part as follows:

"The encoded and compressed signals may then be input to an encryptor 32A. The encryptor 32A is used if encryption is desired to prevent unauthorized access to the signals being transmitted. After encryption, the signals to be transmitted are then input to a modem 34A, which then performs the operations necessary to send the signals on a telephone line." (column 4, lines 25-31)

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Thus, the Gattis reference discloses an encryptor which inputs encrypted signals to a modem for transmission on a telephone line. Therefore, the Gattis reference does not teach or suggest the claimed preparing an upstream communication signal, comprising encrypted audio and video data, for transmission over the transmission network of the cable television program delivery system.

Thus, the Hendricks, Schindler and Gattis reference, alone or in combination, fail to teach or suggest the Applicants' invention as a whole.

As such, Applicant submits that independent claim 106 is patentable under 35 U.S.C. §103(a) over Hendricks in view of the Hendricks, Schindler and Gattis references alone or in combination. Moreover, independent claim 115 contains substantially similar limitations as those discussed above in regards to claim 106. Therefore, claims 115 is also allowable under 35 U.S.C. §103. Furthermore, dependent claims 107-114 and 116-118 depend directly or indirectly from independent claims 106 and 115 and recite additional limitations thereof. As such and for at least the same reasons discussed above with respect to claims 106 and 115, these dependent claims are also non-obvious in view of the Hendricks, Schindler and Gattis references alone or in combination under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the rejection be withdrawn.

New Claims

New claim 119 is patentable at least because it depends upon independent claim 115, which is patentable at least for the reasons discussed above. New independent claim 120 is patentable because it contains substantially similar relevant limitations as independent claims 106 and 115, which are patentable at least for the reasons discussed above.

CONCLUSION

Applicant submits that claims 106-120 are in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Stephen Guzzi at (732) 383-1405 or Eamon J. Wall at


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(732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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